

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

CINDY AVILA, Individually, and as Personal )	CASE NO. 04-CV-3384
Representative of the Estate of STEVEN )	
AVILA, et al., )	
)	
Plaintiffs, )	
)	
vs. )	
)	
CNH AMERICA LLC, et al., )	
)	
Defendants. )	

**STIPULATION AND ORDER REGARDING  
EXPERT DISCOVERY**

The undersigned parties through their respective counsel of record stipulate to the following regarding the scope of discovery and testimony relating to experts in this matter, regardless of when such events, actions, or communications occur:

1. No party or their experts are obligated to preserve or produce budgets, invoices, bills, receipts or time records concerning testifying or non-testifying expert witnesses or consultants, their staff, assistants, colleagues or associates or their companies or organizations. Provided, however, that except as provided in Paragraph 2 below, nothing in this paragraph shall preclude questions by counsel during an expert's testimony about the work underlying the expert's opinions in this case, including the amount of time or costs associated with that work or aspects thereof.

2. The following categories of data, information, and documents (including electronically stored information ("ESI")) need not be disclosed by any party and are outside the scope of, and not subject to, permissible discovery (including questions during an expert's testimony):

a. draft reports, draft studies, draft affidavits, draft declarations, or draft work papers; preliminary calculations, computations, or data runs; and other preliminary or draft materials prepared by, for, or at the direction of a testifying expert witness, non-testifying expert, or consultant;

b. any oral, written or other communication between or among expert witnesses, non-testifying experts or consultants, their staff, assistants, colleagues or associates, or one or more attorneys (or their staff) for the party or parties offering the testimony of the expert

witness, unless the testifying expert witness is relying upon such communications in connection with the expert witness' opinions in this matter; and

c. any notes, ESI or other writings taken or prepared by, or given to a testifying expert witness or non-testifying expert in connection with this matter, including correspondence, e-mails or memoranda to or from, and notes of conversations with, the expert's staff, assistants, colleagues or associates, one or more other expert witnesses or non-testifying expert consultants, or one or more attorneys for the party or parties offering the testimony of the expert witness, unless the testifying expert witness is relying upon such notes, ESI or other writings in connection with the expert witness' opinions in this matter.

3. Nothing in this Stipulation and Order shall preclude a testifying expert from being questioned during testimony about any (a) proposition, fact, belief or other data, information or material on which the expert relies in support of her or his opinions in this matter or (b) facts or data received, considered, or reviewed if relied upon, or if considered and rejected, by the expert in connection with her or his opinions in this matter.

4. Neither the terms of this Stipulation and Order nor the parties' agreement to them implies that any of the information restricted from discovery through this Stipulation and Order would otherwise be discoverable.

5. Any party may move the Court to modify this Stipulation and Order upon good cause shown.

6. The parties agree to comply with this Stipulation and Order pending the Court's approval.

/s/ Daniel W. Nelson

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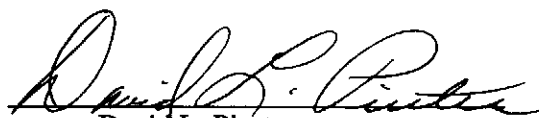
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*Attorneys for Plaintiffs*

IT IS SO ORDERED:

Date: 2-9-09

  
David L. Piester  
United States Magistrate Judge